

Amendment and Response

Serial No.: 10/790,355

Confirmation No.: 9409

Filed: 1 March 2004

For: WALK-BEHIND IMPLEMENT AND HANDLE ASSEMBLY RELEASE APPARATUS FOR
USE WITH SAME

Page 8 of 12

Remarks

The Office Action of September 20, 2005 has been received and reviewed. With claims 1, 8, and 15 having been amended, claims 2, 13-14, and 17 having been canceled, and claims 23-26 having been added, the pending claims are claims 1, 3-12, 15-16, and 18-26. Reconsideration and withdrawal of the rejections, and entry and consideration of the new claims, are respectfully requested for at least the reasons set forth below.

Information Disclosure Statement

It is noted that U.S. patent document ser. no. 10/942,427 was crossed off the PTO-1449 submitted by Applicant on 16 December 2004. Applicant's representative, Matthew W. Adams (Reg. No. 43,459) appreciates Examiner Torres time in discussing this issue via telephone on 29 September 2005. Pursuant to that discussion, Applicant has provided a copy of the 1449 form identifying the '427 application with this response. It is Applicant's understanding that the document will be initialed as considered as it was available in image file wrapper and included in a timely-filed Information Disclosure Statement. It is also believed that no fee is due as the Information Disclosure Statement was timely-filed. If the Examiner disagrees, it is requested that Applicant's representative be contacted at the phone number identified below before the next Official Communication is issued.

Claim Amendments

Claim 1 has been amended to include recitations of dependent claim 2, e.g., the claim has been amended to recite that the handle assembly release apparatus includes a release member operable to pivot about an axis transverse to a longitudinal axis of the unit.

Claim 8 was amended only to conform with amended claim 1, i.e., the scope of this claim has not changed.

Claim 15 has been amended to include recitations from dependent claim 17, e.g., wherein the lever member pivots about a generally horizontal and transverse axis.

Amendment and Response

Serial No.: 10/790,355

Page 9 of 12

Confirmation No.: 9409

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USE WITH SAME

The 35 U.S.C. §102 Rejections

To anticipate a claim, each and every element of the claim must be found in a single prior art document. Moreover, the identical invention must be shown 'in as complete detail as is contained in the ... claim.'

M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1, 2, and 9-12

Claims 1, 2, and 9-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schantz et al. (U.S. Patent No. 3,196,971). Of these claims, claim 2 has been canceled, rendering its respective rejection moot. The rejection of remaining claims 1 and 9-12 is traversed for at least the reasons set forth below.

Amended independent claim 1, from which claim 9 depends, recites a walk-behind outdoor power equipment unit having, among other elements, a handle assembly having a first handle member and a second handle member each pivotally coupled to the housing, wherein the handle assembly may be selectively locked, relative to the housing, in a first operating position. The unit may further include a handle assembly release apparatus associated with the handle assembly. The handle assembly release apparatus includes a release member operable to both pivot about an axis transverse to a longitudinal axis of the unit, and impart a releasing force simultaneously to each of the first and second handle members to unlock the handle assembly from the first operating position, the releasing force at least partially reacted by the housing.

Claim 10, from which claims 11-12 depend, recites similar language. For example, claim 10 recites a handle assembly release apparatus associated with the handle assembly, wherein the handle assembly release apparatus comprises a lever pivotable about an axis transverse to a longitudinal axis of the mower and operable to impart a releasing force to the at least one handle member to unlock the same from the first operating position.

Schantz et al. describes a gear driven steering mechanism for use with a power mower. The mower include a steering shaft 40 and a steering shaft yoke 120. "The yoke 120 is formed

Amendment and Response

Serial No.: 10/790,355

Page 10 of 12

Confirmation No.: 9409

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of a pair of semi-rigid yoke arms 122 and 124, which are pivotally connected by pins 125 to extensions 126 and 128." Col. 3, Ln. 25-30. The ends of the yoke arms are "tensioned toward one another by a pair of springs 130 and 132." Col. 3, Ln. 34-36. The steering shaft 40 "may also be provided with a stop latch 140" that includes "two studs 142 and 143 mounted upon the yoke [arm] 124." The latch 140 may fit over the studs to hold the shaft 40. Col. 3, Ln. 63 - Col. 4, Ln. 3.

Applicant submits that Schantz et al. fails to teach each and every recitation of claims 1 and 10. For example, claim 1 recites that the release member imparts a releasing force simultaneously to each of the first and second handle members, while claim 10 recites a lever operable to impart a releasing force to the at least one handle member. However, the stop latch 140 of Schantz et al. fails to impart a releasing force at all. Rather, it functions only as a latch. Moreover, even if the latch of Schantz et al. could be considered to impart any releasing force, it clearly fails to impart it simultaneously to each of the yoke arms 122 and 124 as would be required by claim 1. Rather, the stop latch is capable of interacting only with the single yoke arm 124.

For at least these reasons, Applicant submits that Schantz et al. fails to satisfy the objective criteria for anticipation, e.g., it fails to teach each and every element of claims 1 and 10. Claims 9 and 11-12 are also submitted to be allowable over Schantz et al. not only because of their dependence on claims 1 and 10, but also due to the subject matter recited therein. As a result, reconsideration and withdrawal of this rejection are requested.

Claims 1, 3, 4, 15, 16, and 18-21

Claims 1, 3, 4, 15, 16, and 18-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Nepper et al. (U.S. Patent No. 3,764,156).

While Applicant generally traverses this rejection (e.g., Nepper et al. does not disclose the lip recited in claim 19), independent claims 1 and 15 have been amended to incorporate recitations of dependent claims 2 and 17, respectively. As claims 2 and 17 are not identified as

Amendment and Response

Serial No.: 10/790,355

Page 11 of 12

Confirmation No.: 9409

Filed: 1 March 2004

For: WALK-BEHIND IMPLEMENT AND HANDLE ASSEMBLY RELEASE APPARATUS FOR
USE WITH SAME

anticipated by Nepper et al., the rejection is believed to be rendered moot. Moreover, claims 3, 4, 16, and 18-21 are submitted to be allowable not only because of their dependence, but also because of the particular subject matter recited therein. Reconsideration and withdrawal of the rejection are, therefore, requested.

Claims 1, 3, and 5-8

Claims 1, 3, and 5-8 were rejected under 35 U.S.C. § 102(b) as being anticipated Kaley et al. (U.S. Patent No. 5,636,504).

Applicant submits that independent claim 1 has been amended to incorporate recitations of dependent claim 2. As claim 2 is not identified as anticipated by Kaley et al., the rejection is believed to be rendered moot. Moreover, claims 3 and 5-8 are submitted to be allowable not only because of their dependence, but also because of the particular subject matter recited therein. Reconsideration and withdrawal of the rejection are, therefore, requested.

Allowable Subject Matter

Applicant notes that claim 22 stands allowed and that claims 13, 14, and 17 would be allowable if redrafted in independent form. Subject matter of claim 13 is presented in new claim 23, while subject matter of claim 14 is presented in new claim 24 (recitations from now-canceled claim 17 are included in amended claim 15 as discussed above). Claim 25, which depends from claim 24, contains subject matter of original claim 11. Entry and consideration of claims 23-25 are respectfully requested.

Applicant also requests entry and consideration of new claim 26. It is believed that this claim is allowable over the art of record.

Amendment and Response

Serial No.: 10/790,355

Page 12 of 12

Confirmation No.: 9409

Filed: 1 March 2004

For: WALK-BEHIND IMPLEMENT AND HANDLE ASSEMBLY RELEASE APPARATUS FOR
USE WITH SAME**Summary**

It is submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicant's Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted by

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20 Dec. 2005
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By: Matthew W. Adams
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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 20th day of December, 2005, at 12:15 pm (Central Time).

By: Sam E. Wight
Name: Sam E. Wight